

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

L & W, INC., a Michigan corporation,

Plaintiff,

Case No. 01-73892

v.

Hon. John Corbett O'Meara

SHERTECH, INC., a Missouri corporation,
and STEVEN W. SHERIDAN, an
individual,

Defendants.

**ORDER GRANTING DEFENDANT'S MOTION
FOR LEAVE TO TAKE *DE BENE ESSE* DEPOSITION**

Before the court is Defendant Shertech's emergency motion for leave to take the *de bene esse* deposition of its expert, Dr. John Holmes, filed December 17, 2007. This matter has been fully briefed.

Having reviewed Shertech's request and L & W's opposition, the court GRANTS Shertech's motion, as follows. The parties may take a discovery and *de bene esse* video deposition of Dr. Holmes on January 6, 2008, or a mutually agreeable date. Shertech may choose to produce Dr. Holmes (1) at the office of Shertech's counsel; (2) via videoconference; or (3) in Denmark. Should Shertech choose to produce Dr. Holmes in Denmark, Shertech shall pay the reasonable expenses of Plaintiff for its attendance: (1) round-trip coach airfare to Denmark for one L & W attorney; (2) food and lodging for that attorney in Denmark for a maximum of three nights; and (3) that attorney's fees for the travel time to and from Denmark. Shertech shall pay L & W's expenses for airfare in advance and the remaining expenses upon receiving an invoice after the deposition. L & W shall bear its own attorney fees for participation in and

preparation for the deposition(s), except for travel time, as set forth above. Shertech shall be responsible for arranging for a court reporter and videographer in Denmark.

The trial will proceed as scheduled on January 29, 2008, at 9 a.m.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: December 21, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, December 21, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager